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Date: 19/11/2026

DH-DD(2026)1569

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Meeting: 1577th meeting (December 2026) (DH)

Communication from the applicant (18/11/2026) in the case of Shopov and Others v. Bulgaria (Application No. 38398/11) (Todorov and Others group)

Information made available under Rule 9.1 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1577e réunion (décembre 2026) (DH)

Communication du requérant (18/11/2026) relative à l'affaire Shopov et autres c. Bulgarie (Requête n° 38398/11) (Groupe Todorov and Others) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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18 NOV. 2026
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DES ARRETS DE LA CEDH

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16th November 2026
Mihail Ekimdzhiev, Lawyer
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Application no. 59983/12

DEAR DIRECTOR GENERAL,

*** Procedure overview**

1. On 03.09.2012 the applicants – Mr. St. K., Mr. Sv. K. and two companies lodged an application before the European Court of Human Rights (ECtHR, the Court) under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR, the Convention) against the Republic of Bulgaria.

2. With a final Judgment from 9 February 2023 (*Shopov and Others v. Bulgaria*, joined applications nos. 38398/11, 59983/12 and 16753/18), the Court found a violation of Article 1 of Protocol No.1 to the Convention. According to the relevant part of the Court's reasoning:

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"9. In Todorov and Others (cited above, §§ 200-09) the Court identified some potential flaws in the 2005 Act and in the manner in which it had been applied. It highlighted in this respect the combined effect of the wide scope of its application – as to predicate crimes and as to the periods for which the defendants' revenues and expenses were being checked, the difficulties for defendants to prove what the courts considered "lawful" income during such a period, marked, moreover, by inflation and economic changes, and the presumption that any asset not shown to have had a "lawful" provenance was the proceed of crime. The Court's position was that, while these potential flaws were not sufficient to render each forfeiture under the 2005 Act contrary to Article 1 of Protocol No. 1, they certainly placed a considerable burden on defendants in forfeiture proceedings and could tilt the balance in favour of the State. Thus, as a counterbalance and a guarantee of the applicants' rights, it was crucial that the national courts established a causal link between the assets for which forfeiture was being sought and the criminal conduct of the defendants. The Court was prepared to defer to the national courts' assessment as to the existence of such a link, in so far as it was not arbitrary or manifestly unreasonable (ibid., §§ 210-16).

10. Applying these requirements to the specific cases examined in the leading judgment, the Court found a violation of Article 1 of Protocol No. 1 in those of them where the national courts had failed to justify the existence of the causal link defined above, and had ordered forfeiture relying merely on the presumption contained in the 2005 Act and on discrepancies between the applicants' expenses and their "lawful" income during the relevant periods (see §§ 217-50 of the judgment).

11. The applications under examination are similar. In particular, in ordering the forfeiture of the applicants' assets the national courts did not attempt to justify the causal link required by the Court, adopting instead of that the same flawed approach that was criticised by it in the cases examined in Todorov and Others. The Court thus sees no reason to reach a conclusion different than the one in these cases.

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12. These complaints are therefore admissible and disclose a breach of Article 1 of Protocol No. 1."

3. As a result, the Court awarded EUR 3, 000 to Mr. St. K. and EUR 3, 000 to Mr. Sv. K. in respect of non-pecuniary damage, plus any tax that may be chargeable. In terms of costs and expenses, the Court considered it reasonable to award EUR 2, 000.

*** Execution of the judgment**

4. In execution of the judgment, the Republic of Bulgaria has paid the amounts indicated by the Court in terms of non-pecuniary damage and costs and expenses.

5. In respect to pecuniary damage, the applicants claimed the value of their forfeited assets by submitting property valuations. The Court, however rejected the claims with the following reasoning:

"17. The Court is not in a position to speculate on whether the applicants' forfeited assets were or were not the proceeds of crime, namely whether the forfeiture was or was not justified, and otherwise on the possible outcome of the forfeiture proceedings, had the requirements of Article 1 of Protocol No. 1 been met. The Court cannot thus determine any pecuniary damage which the applicants might have suffered as a result of unjustified forfeiture. Accordingly, it dismisses the applicants' claims in respect of pecuniary damage and reiterates, as in Todorov and Others (cited above, §§ 320-22), that ***the most appropriate means to remedy the violation is the reopening of the domestic proceedings and the re-examination of the matter by the domestic courts, in compliance with the requirements of Article 1 of Protocol No. 1.***"

6. The monitoring of the execution of the judgment *Shopov and Others v. Bulgaria* is currently pending before the Committee of Ministers within the examination of the leading case *Todorov and Others v. Bulgaria* (appl. no. 50705/11).

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*** Reopening of the national proceedings**

7. Upon request by the applicants with Judgment No. 211 of 02.04.2024, rendered in civil case no. 5449/2023 of the Supreme Court of Cassation (SCC), the final Decision No. 371 of 28.02.2011 of the Sofia Court of Appeal (SCA) was revoked, and the case was returned to another panel of SCA for new consideration. (Enclosure no. 1)

8. With Judgment No. 3 of 02.01.2025 in civil case of appeal no. 953/2024, SCA upheld the confiscation request of the Commission for Uncovering Proceeds of Crime (the Commission), holding that a causal link between the confiscated assets and Mr. St. K.'s criminal conduct "*can and should be made* ". (Enclosure no. 2) As reasons, SCA submitted that "*he had been convicted on multiple occasions, as shown by his current certificate of convictions*", citing Article 235(3) of the Code Civil Procedure to support that it is a fact which must be taken into account, irrespective of the fact that the subsequent criminal conduct (including that in Germany) falls outside the period under review. SCA reached this conclusion by adopting, without independent analysis, the Commission's own submission of 13.06.2024 in which it states that "*possessing narcotic substances on a large scale was capable of generating illegal proceeds, since they were not held for his own use*". On this basis SCA held that Mr. St. K.'s convictions are evidence of a long-standing pattern of criminal conduct capable of generating significant proprietary gains. At no point, however, did SCA identify which specific offence had generated the funds used to acquire any specific property or asset. On this basis, SCA nonetheless ordered the confiscation of 12 immovable properties, 4 vehicles, and shares in the two companies, dismissing only the request for seizure of funds that had passed through Mr. St. K.'s bank accounts.

9. The chronology confirms the absence of any genuine link. The properties which the Commission sought to confiscate were acquired on 11.10.1999, 08.12.1999, 30.03.2001, 02.04.2001, 28.08.2001, 11.10.2001, 09.11.2001, 29.11.2001 and 07.03.2002. By contrast, the convictions on which SCA placed particular reliance concern conduct from 1985 (a single-time gambling offence, resulting in a fine) - by the time the Commission's reasoned request was lodged in

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2007, 22 years had already elapsed since that act. In addition to the further convictions on which the Commission relies - the 2004 attempted unlawful deprivation of liberty and the 2007 threat of murder - do not fall within the predicate offences listed in Article 3(1) of the 2005 Act at all.

10. There are two further offences, neither of which had been relied upon in the Commission's original reasoned request, both introduced by the Commission for the first time in its submission of 13.06.2024. Both already relied upon as the sole basis for a separate confiscation — by SCA's own Judgment No. 1049 of 14.07.2022 in case no. 1126/2021 — of different assets acquired by Mr. St. K. between 2003 and 2013: a domestic conviction, by plea agreement of 22.01.2018 (case no. 203/2017), for an offence committed on 26-27.11.2012; and a German conviction, by judgment of the Göttingen Regional Court of 28.04.2016, for an offence committed in 2011.

11. It is temporally impossible for either offence, committed some five to six years after the submission of the reasoned request for confiscation by the Commission, to have a connection with the properties acquired in 1999–2002, the confiscation of which is claimed with the same reasoned request. Again, as stated in the grounds of SCC when considering civil case No. 4623/2022, and of SCA in the consideration of case No. 1126/2021, both convictions relate only to the forfeiture of property of Mr. St. K. acquired in the period 2003–2013, and are inadmissible as a basis for confiscation of property acquired during other periods. SCA nonetheless relied on both convictions as grounds for its reasoning, without examining whether they had any connection to the properties actually at issue.

12. No explanation is offered in SCA's judgment as to how offences committed years before or after the relevant acquisitions, or offences incapable of gaining any economic gain, could have supplied the funds used to acquire the assets in question.

13. Moreover, none of these convictions had been relied upon in the Commission's original reasoned request. They were introduced in its submission of 13.06.2024, after the proceedings had already been reopened on appeal – a stage at which, under Article 235(3) of the Code of Civil Procedure, new factual allegations

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may not properly be introduced or relied upon. Even if these allegations were considered relevant and chronologically consistent, they would still fail to satisfy the statutory requirements of the applicable law.

14. In addition, the seized explosives, firearms and ammunition at issue were forfeited to the State, and the narcotics at issue were destroyed. Until their handover to the State, they were in custody of a third party, with no suggestion they had been used or disposed of by Mr. St. K. in the meantime. There was, accordingly, no economic gain capability being generated by these offences.

15. In the written defence submitted in the reopened proceedings, the applicants set out a detailed, offence-by-offence rebuttal of each of the convictions relied upon by the Commission, demonstrating the absence of any temporal or substantive connection between them and the specific properties whose confiscation was sought. SCA disregarded this analysis in its entirety, without addressing a single one of the applicants' arguments or giving any reasons for rejecting them. Instead of undertaking the individualised assessment that SCC's judgment required — and that the Court's own case-law demands — SCA once again confined itself to the general assertion that a causal link "*can and should be made*" given Mr. St. K.'s criminal record as a whole, irrespective of the fact that the subsequent criminal conduct falls outside the period under review.

16. SCC had held, in remanding the case, that the violation found by the Court arose from the domestic courts' having ordered confiscation *"without making any attempt to establish the causal link"* between the property and the applicants' proven criminal conduct. Despite this, SCA again failed to comply with SCC's mandate, nor did it take into account the Court's own judgments.

17. In substance, therefore, SCA did not remedy the very defect that SCC had identified as the basis for reopening the proceedings; it reproduced it. The applicants were left without any judicial forum, domestic or otherwise, in which their detailed and unrebutted objections to the Commission's case were actually addressed.

18. The applicant filed an appeal against the judgment of SCA. With Decision No. 115 of 12.01.2026, the SCC rejected the cassation appeal of the

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judgment of SCA from 02.01.2025, thereby rendering it final. (Enclosure no. 3) SCC held that SCA *"had taken into account the necessity of causal link"* and *"had expressly set out reasons"* as to why it could reasonably presume that the confiscated property resulted from Mr. St. K.'s criminal conduct, and that the appellate judgment *"contains reasons showing how the court reached its conclusion"*. SCC did not engage, in substance, with whether SCA's reasoning in fact demonstrated a link between any specific offence and any specific asset. It treated the mere existence of reasons, however general, as sufficient, without testing their adequacy against the individualized standard that the Court's own case-law required. In doing so, SCC converted a formal requirement of reasoning into a purely nominal one and left uncorrected the very defect that had already led the Court to find a violation in the applicant's case.

***Actions of the applicants after the reopening of the proceedings**

19. Due to the result of the national proceedings, on 11.05.2026 the applicants filed an application before the ECtHR, claiming violations of Article 1 of Protocol No. 1, Article 6 § 1, and Article 13 of the Convention in conjunction with Article 1 of Protocol No. 1 and Article 6 § 1.

20. In regards to the claims under Article 1 of Protocol No. 1, the applicants argued that, unlike the regime examined in *Phillips v. the United Kingdom* (5 July 2001, appl. no. 41087/98), Bulgarian law affords no comparable safeguards. In *Phillips*, English law confiscated only the value found to be connected to the proven offence, calculated from the specifics of the conviction, whereas Bulgarian law confiscates any asset for which a "lawful source" has not been shown, without any assessment of the actual amount of the proceeds. In addition, English law empowers the domestic court to disapply the evidentiary presumption where doing so would risk the fairness of the proceedings — a safeguard consistent with the Court's own observations in §§ 207–208 of *Todorov and Others*, where it noted that strict adherence to the evidentiary restrictions of Article 133 of the Code of Civil Procedure could hinder the proving of facts. In *Phillips*, the English court was not bound to adopt a formal market value and instead applied the lowest reasonable

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estimate, whereas SCA refused to consider any acquisition value other than the contested "market" valuation, based on data not derived from actual transactions.

21. The applicants further argued that SCA's judgment failed to provide the procedural guarantees required by Article 6 § 1 of the Convention for a fair trial and equality of arms, by applying strict evidentiary presumptions — preclusion, the restriction on proving facts by witness evidence, and the refusal to issue a judicial certificate that would have allowed the applicants to obtain notarial deeds of comparable property sales in order to establish the actual market value of the confiscated properties — without regard to whether their strict application would compromise the fairness of the proceedings, notwithstanding the Court's own observations on this point in *Todorov and Others*.

22. As to Article 13, the applicants relied on the principle that a remedy within the meaning of that provision must deal with the substance of the complaint as lodged by the applicant; if the relevant authority or court reformulates the complaint, or fails to take into account an essential element of the alleged violation of the Convention, the remedy will be inadequate (*Glas Nadezhda EOOD and Elenkov v. Bulgaria*, 2007, § 69 and the cited case law therein). In the present case, the domestic proceedings did not provide an effective opportunity for examination, on the merits, of the applicants' complaints concerning the interference with their right to the peaceful enjoyment of their possessions and the associated guarantees of a fair trial giving rise to a violation of Article 13 of the Convention.

23. However, with Decision from 27 August 2026 the Court declared the application inadmissible. According to the Court, the complaints raised under Article 6 § 1, Article 1 of Protocol No. 1 and Article 13 of the Convention are manifestly ill-founded as they do not disclose any appearance of a violation of the rights and freedoms set out in the convention and its Protocols.

*** Non-compliance with the judgment of the ECtHR and the need for reopening monitoring proceedings**

24. According to Article 46 of the Convention, contracting parties must abide by the final judgment of the Court in any case to which they are parties.

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Additionally, Article 26 of the Vienna Convention on the Law of Treaties (VCLT) provides that every treaty in force is binding upon the parties to it. In this regard, and pursuant to Article 27 of VCLT, a state cannot invoke the provisions of its internal law as justification for its failure to perform a treaty, including the ECHR.

25. For in-depth analysis on the obligations of states in respect of the execution of ECtHR's judgments, the applicants rely, *inter alia*, on §§ 81 – 116 and §§ 147 – 171 from the case of *İgar Mammadov v. Azerbaijan* (appl. no. 15172/13, 29 May 2019).

26. In addition to that, as indicated in *Emre v. Switzerland (No. 2)* (appl. no. 5056/10, 11 October 2011):

"69. The Court reiterates that its judgments have binding force pursuant to Article 46 of the Convention. Admittedly, States remain free to choose the means to be used in order to comply with them, all the more so in a situation like that in the present case, where it did not give any indication, in the judgment itself, as to how it should be executed (contrast Assanidze v. Georgia [GC], no. 71503/01, ECHR 2004-II). Moreover, the aim is to put the applicant, as far as possible, in the position he would have been in had the requirements of the Convention not been disregarded (restitutio in integrum) ...

71. In the light of the above-mentioned principles, the Court is of the view that the Federal Court enjoyed a certain margin of appreciation in the interpretation of the Court's judgment. However, it cannot but note that, in the present case, it substituted its own interpretation for that of the Court. Even supposing that such an approach was admissible and justified in the light of the Convention, it would still be necessary for the Federal Court's fresh assessment of the Court's arguments to be complete and convincing. ...

75. In view of the foregoing, the Court finds that the most natural execution of its judgment, and that which would best correspond to the principle of restitutio in integrum, would have been to annul purely and simply, with immediate effect, the exclusion measure ordered against the applicant. Even assuming that another result would have been acceptable, the Court is of the view that the binding force of its judgments under Article 46 § 1 and the importance of their effective execution, in

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good faith and in a manner compatible with the "conclusions and spirit" of the judgment, necessarily required, in the circumstances of the case, a more in-depth examination of the considerations set out in the Court's first judgment."

27. Additionally, in Recommendation No. R (2000) 2 of the Committee of Ministers to member states on the re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights[1], the Committee invited the Contracting Parties *"to ensure that there exist at national level adequate possibilities to achieve, as far as possible, restitutio in integrum"*. The aim of the reopening of the proceedings is to *"give full effect to the judgments of the Court"*[2].

28. In the present case, as cited in § 5 above, the Court explicitly stated that the most appropriate means to remedy the violation found was the reopening of the domestic proceedings and the re-examination of the matter by the domestic courts, in compliance with the requirements of Article 1 of Protocol No 1. However, the re-examination of the national proceedings, following the Court's judgment, shows that these requirements have not been complied with. In support of this, the applicants put forward the following arguments:

A) As set out in § 8 and onwards above, SCA's Judgement No. 3 of 02.01.2025 did not establish a genuine causal link between the confiscated assets and Mr. St. K.'s criminal conduct, and at no point examined the proportionality of the interference, as required by *Todorov and Others v. Bulgaria* (§§ 215-216). This approach is inconsistent with the Court's own case-law and thus constitutes a violation of Article 1 of Protocol No. 1.

B) In addition to that, as set out in § 21 above, SCA's judgment failed to provide the procedural guarantees required by Article 6 § 1 of the Convention for a fair trial and equality of the arms – as also required by *Ruiz-Mateos v. Spain*, (§ 63), *McMichael v. the United Kingdom*, (§ 80) – applying strict evidence and the refusal to issue a judicial certificate that would have allowed the applicants to

[1] Adopted by the Committee of Ministers on 19 January 2000 at the 694th meeting of the Ministers' Deputies
[2] Recommendation No. R (2000) 2, § 2

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establish the actual market value of the confiscated properties, without regard to whether their strict application would compromise the fairness of the proceedings notwithstanding the Court's own observations on this point in *Todorov and Others*. This deficiency was not remedied on cassation: by Decision No.115 of 12.01.2026, SCC declined to admit the applicants' appeal for examination without engaging with these arguments in substance.

29. As a result, these issues raise a violation of Article 1 of Protocol No. 1 to the Convention, in respect of: (a) the requirement of a genuine causal link between the confiscated assets and proven criminal conduct in relation with the them; (b) the requirement of proportionality between the means employed and the legitimate aim pursued; a violation of Article 6 § 1 of the Convention in respect of (c) the applicants' right to a fair trial and equality of arms adducing and contesting evidence of the lawful origin of assets and (d) violation of Article 13 due to the lack of effective domestic remedy.

30. In the current case the national authorities failed to comply with the Court's judgment, thereby depriving it of its effect. This calls for the explicit interference of the Department for the Execution of Judgments of the European Court of Human Rights and the Committee of Ministers that could suspend the continuing violation of the ECHR.

31. It should be noted that the monitoring of the execution of judgments of the ECtHR shall not be limited to the fact of the reopening of the national proceedings but also to the development of these reopened proceedings. This is the only way the judgment, whose purpose is to put the applicants, as far as possible, in the position they would have been in, had the requirements of the Convention not been disregarded. The execution of the judgment thereby does not fulfil its purpose.

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Enclosures:

1. Judgment No. 211 of 02.04.2024 in civil case no. 5449/2023 of the Supreme Court of Cassation;
2. Judgment No. 3 of 02.01.2025 in civil case no. 953/2024 of the Sofia Court of Appeal;
3. Decision No. 115 of 12.01.2026 in civil case no. 2043/2025 of the Supreme Court of Cassation.

Sincerely,

Mihail Ekimdzhiev,
Lawyer

Katina Boncheva,
Lawyer